IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

MACON COUNTY INVESTMENTS, INC.; REACH ONE, TEACH ONE OF AMERICA, INC.,	)	
Plaintiffs,	)	
v.	)	**Civil Action No.: 3:06-cv-224-WKW**
SHERIFF DAVID WARREN, in his official capacity as the SHERIFF OF MACON COUNTY, ALABAMA,	)	
Defendant.	)	

PLAINTIFFS' MOTION TO STRIKE DEFENDANT'S MOTION TO DISMISS, RESPONSE TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION, AND RESPONSE TO PLAINTIFFS' MOTION FOR THE COMMENCEMENT OF EARLY DISCOVERY

COME NOW the Plaintiffs, Macon County Investments, Inc., ("MCI") and Reach One, Teach One of America, Inc., ("Reach One, Teach One") pursuant to Rules 12(a) and 12(f) and Rule 6(a) of the Federal Rules of Civil Procedure ("FRCP") and hereby move this Court to strike the Defendant's Motion to Dismiss (and accompanying Memorandum Brief and Exhibits); the Defendant's Response to the Plaintiffs' Motion for Preliminary Injunction; and the Defendant's Response to Plaintiffs' Motion for the Commencement of Early Discovery. As grounds for this Motion, the Plaintiffs state the following:

1. On March 9, 2006, the Plaintiffs file a Complaint for Declaratory and Injunctive Relief, an Application for Preliminary Injunction and a Motion for the Commencement of Early Discovery. (Exhibit 1, Notices of Electronic Filing -- Plaintiff's Complaint and Motions).

2. On March 10, 2006, the Summons and Complaint along with Plaintiffs' other Motions were mailed to the Defendant. (Exhibit 2, Notice of Mailing of Summons).

3. On March 11, 2006, the Defendant signed for and accepted service of said pleadings. (Exhibit 3, Return of Service Card).

4. Rule12(a), FRCP, states that "unless a different time is prescribed in a statute of the United States, a defendant shall serve an Answer within 20 days after being served with the summons and complaint."

5. Rule 6(a), FRCP, states that when computing a time prescribed in the Rules, the day from which the time period begins shall not be included, but the last day of the period shall be included in the computation. Additionally, weekends and holidays are only omitted from the computation when the time prescribed in less than 11 days.

6. Using the Rule as a guide, the Defendant's Responses should have been made on March 31, 2006.

7. The Defendant did not file the above-referenced responses until April 3, 2006. (Exhibit 4, Notices of Electronic Filing – Defendant's Motion to Dismiss and Responses).

8. Thus, the Defendant's Motion to Dismiss and Responses to Plaintiffs' Motions are out-of-time and should be stricken pursuant to Rule 12(f), FRCP.

WHEREFORE, PREMISES CONSIDERED the Plaintiffs respectfully request that this Court strike the Defendant's Motion to Dismiss and Responses to Plaintiffs' Motion as said Motion and Responses have been filed in violation of the stated time limits in the Federal Rules of Civil Procedure.

Respectfully Submitted,

/s/ Ramadanah M. Salaam

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon all counsel of record via this Court's electronic filing system on this the 3rd day of April, 2006.

/s/ Ramadanah M. Salaam
OF COUNSEL